

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

February 5, 2009

William Edgar Hartman
SBI No.
Sussex Correctional Institution
P. O. Box 500
Georgetown, DE 19947

RE: State v. Hartman
Defendant ID No. 0508007488 (R-1)

Dear Mr. Hartman:

On January 23, 2009, the Court received your Motion for Postconviction Relief. Upon studying same, as well as the Superior Court file and sentencing order, I find that it is procedurally barred and therefore it is denied.

Following a bench trial, you were convicted of three counts of rape in the second degree, one count of rape in the fourth degree, and one count of unlawful sexual contact in the third degree. You received a sentence of thirty-three (33) years at Level V incarceration. You represented yourself both at trial and on appeal. On appeal, you complained that the sex you admitted you had with your teenage daughter on multiple occasions should have been considered as incest and not rape. You also argued that you were denied due process because you did not receive evidence you had requested in pretrial discovery motions.

The Supreme Court affirmed your conviction by Order of July 14, 2008. *Hartman v. State*, 954 A.2d 910, 2008 WL 2723573 (Del. July 14, 2008) (ORDER).

In your present Motion for Postconviction Relief, you argue that there was suppression of favorable evidence. Specifically, you reference a June 8, 2007, Motion for Disclosure of Evidence which was denied.

In Ground Two, you state "motion for impeachment of witnesses". It appears that Ground Two is an attack as to the witnesses' testimony, which is also contained in Ground Three where you state "alleged victims purjured [sic] themselves [sic]".

You then note differences in the trial transcript and information contained in the Child Advocacy Center interview.

Ground One is procedurally barred pursuant to Superior Court Criminal Rule 61(i)(3) in that you allege that the Superior Court denied your Motion, but you did not raise this at the Supreme Court level on your direct appeal. You could have done this, and by choosing not to, you had the requirement under Rule 61(i)(3) to state both the cause or reason for your failure to prosecute the matter in the Supreme Court, and to state how you were prejudiced. As noted above, since you acknowledged that you had sexual relations with your daughter, it would be difficult to show prejudice.

Therefore, Ground One is procedurally barred pursuant to Superior Court Criminal Rule 61(i)(3) and this claim is denied.

In Grounds Two and Three, I find that they are likewise procedurally barred pursuant to Rule 61(i)(3). Any claims concerning the lack of evidence or the quality of evidence which resulted in your conviction could have been brought to the Supreme Court's attention on direct appeal, but you did not choose to do that. You have neither offered a reason for that, nor have you shown any prejudice.

Alternatively, I note that this was a bench trial; and, like most trials, there can be differences in the recollection of testimony given at trial as compared to statements given to a Child Advocacy Center interviewer. There is a requirement that the trial judge weigh all of the evidence and that was done in your case. Again, I note evidence against you was overwhelming, including, and as the Supreme Court notes, that you did not dispute that you had sex with your teenage daughter on multiple occasions.

Grounds Two and Three are denied as being procedurally barred pursuant to Rule 61 (i)(3); and alternatively denied as to the merits, as any discrepancy in the testimony and evidence did not and could not impact on the question of your guilt as to sexually molesting your daughter.

Defendant's Motion for Postconviction relief is denied.

IT IS SO ORDERED.

Yours very truly,

/s/ T. Henley Graves

T. Henley Graves

baj

cc: Prothonotary
Department of Justice